

EPA, DNR Sign \$60 Million Cleanup Agreement

By Greg Swanson, Wisconsin Department of Natural Resources

A \$60 million agreement to clean up PCB-contaminated sediment from the Little Lake Butte des Morts segment of the Lower Fox River was recently signed by the Wisconsin Department of Natural Resources, U.S. Environmental Protection Agency, WTM I (formerly Wisconsin Tissue Mills) and P.H. Glatfelter Co. Little Lake Butte des Morts, which lies between Lake Winnebago and Appleton, is also known as Operable Unit 1 in the cleanup plan for the Lower Fox River and Green Bay.

At an Oct. 1 press conference in Menasha, Wisconsin Gov. Jim Doyle noted, "This agreement represents the largest environmental consent agreement ever reached by the state of Wisconsin. In reaching the agreement we are announcing today, DNR and the state of Wisconsin, EPA, U.S. Department of Justice and our other federal partners, local governments and the companies have shown that we can all work together cooperatively and get on with the business of making our environment better."

Details of the agreement announced at the press conference include:

- The estimated cost of the cleanup which is \$61.7 million, plus \$4.5 million for long-term monitoring.
- A special fund that will hold \$25 million each from WTM I and Glatfelter, \$10 million available under a prior settlement with Appleton Papers Inc. and NCR Corp., and interest earned on the money placed in the fund.



Wisconsin Gov. Jim Doyle (right) announces details of the agreement as DNR Secretary Scott Hassett looks on.

"In the event that the fund is not sufficient to finance completion of the cleanup, the agreement reserves DNR's and EPA's right to require WTM I and Glatfelter to perform or pay for the continuation and completion of the work," DNR Secretary Scott Hassett later added. "However, we think this is unlikely and the project can be done under budget, freeing the remaining funds for work downstream. We also think that some savings may result from contributions and cooperation by local municipalities."

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Trustees to Accept NRDA Proposals

By Greg Swanson, Wisconsin Department of Natural Resources

The criteria and categories for potential restoration activities are outlined in the restoration plan released earlier this year by the trustees for the Lower Fox River/Green Bay Natural Resource Damage Assessment site. According to Greg Hill, NRDA coordinator for the Wisconsin Department of Natural Resources, the trustees will partner with municipalities or area non-governmental organizations wishing to propose projects.

“In beginning these restoration activities, the trustees recognize that by working with the broad network of potential partners who have historically assisted in resource management issues and projects, more resource restoration, rehabilitation or recovery projects may be developed and implemented,” Hill explained.

Although the trustees have a history with local organizations such as the Nature Conservancy, Door County Land Trust, and Walleyes for Tomorrow, they will review proposals from almost any grass roots organization. To be a partner, Hill said a group needs a project where it owns, manages, or sponsors something. “If someone owns ecologically significant property and wants to preserve its integrity, a group could act as a liaison,” he continued.

Trustees plan to work within their own organizations and with partners to develop projects. The projects must represent priority activities and fit within the goals established in the restoration plan. The trustees will consider funding a project if it proposes to restore or help recover

an injured resource or if it contributes to the equal ecological value within the restoration area.

Hill said the plan’s goals include protection of wetlands, associated uplands and stream banks, improvement of water quality and fisheries habitat, and the development of human recreation projects.

“Examples of an acceptable priority project would be the restoration of fisheries in a river or watershed or the protection or restoration of water fowl or habitat for birds injured by PCBs,” Hill continued.

Here is an example of how the process could work. A project might get its start as an idea from a sportsman’s club wanting to increase the recreational fishing opportunities for walleye on a particular stretch of the Lower Fox River. The club is seeking NRDA settlement funds to pay for additional stocking of walleye in this stretch of the river and may have funds to share in the cost of some of the work.

The next step would be for the club to contact the appropriate trustee, in this case the DNR, to discuss

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NRDA Web Page Goes Live

By Susan Pastor, U.S. Environmental Protection Agency

A page detailing the natural resource damage assessment has been added to the Wisconsin Department of Natural Resources Lower Fox River Web site.

Available since September, the page explains what the assessment is about as well as directs readers to trustee council meeting minutes, the joint restoration plan, fact sheets and consent decrees. It also outlines restoration projects and gives an example of how organizations may submit a restoration project proposal. It also lists the agencies and tribes serving as natural resource trustees.

The page can be found at <http://www.dnr.state.wi.us/org/water/wm/lowerfox/nrda.html>.

Feedback may be directed to Trustee Council Coordinator Colette Charbonneau, U.S. Fish and Wildlife Service, Colette_Charbonneau@fws.gov.

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the idea. Working with a DNR fisheries biologist and other staff, the pros and cons of the idea can be examined. It may be that the most limiting factor to improve walleye fishing is not the number of fish stocked, but the lack of suitable habitat, or homes, for the fish. Or, it may be that walleye have been stocked in the past, but there is no self-sustaining reproduction because of a lack of suitable areas for spawning. It may be that there are plenty of fish, but access is limited. The DNR may also have a project idea in which some level of non-government sponsorship is needed to make it happen.

Through discussions and a partnership with the DNR, a project could be developed that addresses the ecological factors and is financially viable and sup-

ported by technical staff. The project is then submitted to the trustees for a review of consistency with criteria and goals in the restoration plan. Final acceptance of the project is left to a five-member board, called the trustee council, which is comprised of the authorized officials of the agencies.

The agencies who have trustee representation are the DNR, Michigan Attorney General, Michigan Department of Environmental Quality, U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration, Oneida Tribe of Indians of Wisconsin and Menominee Indian Tribe of Wisconsin.

For further information on how to propose a project, contact Hill at (608) 267-9352.

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In addition to the cleanup, the companies will pay \$3 million toward their overall liability for natural resource damages, and \$1.05 million as partial reimbursement of costs incurred by EPA, DNR and U.S. Department of the Interior.

Although not at the press conference, EPA Regional Administrator Tom Skinner voiced his support. "It's a strong commitment by the mills and it bodes well for additional agreements that address the rest of the contamination," he said.



Contractors are already taking samples in Little Lake Buttes des Morts as part of the design work.

Charlie Wooley, U.S. Fish and Wildlife Service Region 3 assistant regional director also expressed his satisfaction with the agreement. "This is another step in working toward resolution of the natural resource damage component with WTM I and P.H. Glatfelter. This will allow the trustees to engage in habitat restoration that will benefit the people of Wisconsin."

Neenah Mayor George Scherk, Menasha Mayor Joe Laux, Town of Menasha Chairman Arden Tews, and representatives from the two paper companies were also at the press conference.

The Little Lake Buttes des Morts cleanup plan calls for dredging 784,000 cubic yards of PCB-contaminated sediment. The sediment will be dewatered, or squeezed. The cleaned water would then be returned to the river. The dewatered sediment will be trucked to a state-approved landfill for permanent disposal.

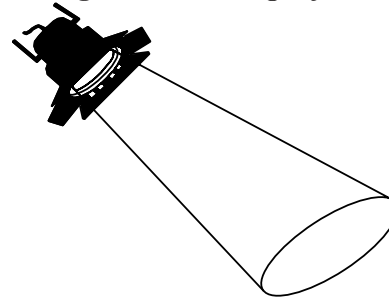
Detailed engineering work for the cleanup has already begun under another agreement with WTM I announced earlier this summer. Contractors can be seen on the lake as they take sediment samples from boats. Dredging is scheduled to begin in 2004. The selection

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The Fox River Current is featuring promising natural resource damage assessment projects in and near the Lower Fox River.

Spotlight On: Yellow Perch Projects

By Colette Charbonneau, U.S. Fish and Wildlife Service



Thanks to information gathered from projects supported by the Lower Fox River/Green Bay natural resource damage assessment, fishery regulations will be reviewed this year and next.

The agencies serving as natural resource trustees have funded several projects to learn more about how to enhance yellow perch in Green Bay. Yellow perch populations (a northeast Wisconsin Friday fish-fry favorite) have been declining in Lake Michigan including Green Bay since the early 1990s. Recent harvest limits were drastically reduced for commercial and sport fisherman. Such rule changes were needed to benefit the perch population by reducing impact on the adult spawners. Current regulations for a 20,000-pound commercial fishery and a daily limit of 10 for sport fishermen will remain in effect until July 2004.

Justine Hasz, Wisconsin Department of Natural Resources fish biologist, reported, "The decline in the population during the 1990s can be attributed to poor recruitment of young-of-the-year fish. What is not known is what is happening to these young fish each year."

NRDA representatives serving on a "trustee council" provided funds through the DNR to host public workshops held by the Lake Michigan Fisheries Forum. These workshops helped answer the question of what is happening to the young yellow perch. The three workshops were open to anyone interested in the fate of the yellow perch and were held in spring 2002. Invited experts from throughout the Great Lakes Basin gave presentations on yellow perch biology and population trends, influence of predators,



Yellow Perch

and effects of contaminants and invasive species. Large group discussions and smaller, topic-specific sessions lead to a prioritized list of potential management actions.

Recommendations from the forum as a result of the workshops were provided by Dr. Philip Moy, SeaGrant and Fisheries Forum chair. "Many actions recommended in the workshops address the need to know more about the yellow perch population and pressures that may influence that population, specifically predators and habitat," he said. "Though the department is best able to influence these human activities, there was consensus that more needs to be known about non-human factors that influence Green Bay yellow perch."

To begin answering the question of non-human factors that influence yellow perch, U.S. Fish and

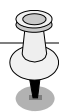
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Wildlife Service and DNR submitted a restoration proposal to the trustee council to examine yellow perch assessment and harvest data from southern Green Bay and near the mouth of the Fox River. The restoration project was funded and the agencies began to compile 25 years of assessment and harvest information. FWS consolidated all available information into an electronic database and is developing statistical population models to analyze the information. These tools will help identify factors limiting young yellow perch in Green Bay. They will also address the recommendations from the forum workshops.

“The modeling results should help the DNR better identify which of the many potential factors are most limiting to yellow perch in Green Bay and focus management efforts to overcome them,” said Mark Holey, project leader of the FWS Green Bay fisheries office.

The final workshop report can be viewed at:
www.seagrant.wisc.edu/outreach/fisheries/Fisheries_Forum/Workshops/GBWorkshops.asp.

**Out and About...**

By Susan Pastor, U.S. Environmental Protection Agency

The Fox River Intergovernmental Partnership, made up of U.S. Environmental Protection Agency, Wisconsin Department of Natural Resources, U.S. Fish and Wildlife Service, National Oceanic and Atmospheric Administration, Oneida Tribe of Indians of Wisconsin and Menominee Indian Tribe of Wisconsin, regularly provides speakers to organizations in the Fox Valley area. The following partners recently made presentations:

August

- ◆ *Chuck Warzecha and Dyan Steenport*, Wisconsin Department of Health and Family Service: Women, Infants and Children staff, Green Bay; fish consumption advisories.

September

- ◆ *George Boronow*, DNR, *Tom Nelson*, Oneida and *Colette Charbonneau*, FWS: Fox Cities community representatives, Neenah; partnering on local restoration projects.
- ◆ *Len Polczynski and Ed Lynch*, DNR: Winnebago County Solid Waste Management Board, Town of Vinland; Lower Fox River records of decision.
- ◆ *Tom Nelson*, Oneida and *Colette Charbonneau*, FWS: Trout Unlimited–Green Bay Chapter, Howard; general restoration.
- ◆ *Tom Nelson*, Oneida and *Colette Charbonneau*, FWS: Environmental Science and Policy graduate class, University of Wisconsin–Green Bay; general restoration and class project assistance.
- ◆ *Greg Hill*, DNR: Fox Valley Chambers of Commerce, Appleton; general natural resource damage assessment and how to propose an NRDA project.

October

- ◆ *Greg Hill*, DNR: Midwest Environmental Enforcement Association Training Conference, Madison; general Lower Fox River cleanup and restoration.

Profile On . . . Randy Stone

DOJ Attorney Values His Wisconsin Heritage

By Susan Pastor, U.S. Environmental Protection Agency

Although he never actually lived in Wisconsin, U.S. Department of Justice Trial Attorney Randy Stone has Wisconsin roots.

Stone, who works in Washington D.C. and is a member of the Lower Fox River legal team, said his “Wisconsin roots go deep.” While growing up in the Minneapolis-St. Paul area, Stone said he often visited his grandparents across the state line. “The Stones settled in Wisconsin in 1845,” he explained. “My mom was born and raised in DePere and my dad is from Waukesha.”

Working on the Lower Fox River project has enabled him to travel from his Fairfax County, Va., home and return to the Midwest. “I drove by my grandparents’ former home in DePere and my great grandparents’ old house in Madison when I attended the last two press events in the valley,” he continued. “Both houses still look great.”

As much as Stone, 38, enjoys coming back to Wisconsin, most of his work is done over the telephone and via e-mail from his office two blocks from the White House. He is a regular participant on weekly attorney conference calls and frequently communicates with U.S. Environmental Protection Agency, state of Wisconsin, Department of Interior and tribal attorneys. “The conference calls are used to coordinate everything that is going on and to provide updates on the status of our dealings with the paper companies, upcoming meetings and events,” he said. Stone, who received his bachelor’s degree in chemistry and law degree from the University of Michigan, has been assigned to the Lower Fox River since December 2000. He worked for a Washington D.C. law firm for seven years before joining the federal government in 1997. “Unlike at a big firm, you get to have your own cases and you get to run them here at Justice,” he said. “That’s just more fun for a lawyer.”



Randy Stone

While there is nothing wrong with having some fun on the job, Stone is all business when it comes to his share of the work. “I was deeply involved in negotiating the interim settlement with Appleton Papers and NCR, the natural resource damage settlement with Fort James, and the recently announced consent decree with Glatfelter and WTM I.”

According to Stone, this project is a welcome challenge. “It’s much more complex and interesting than an everyday case,” he stated. “The cleanup and the restoration work is going to be cutting edge and many of the legal issues here have little or no precedent.”

The fact that there are several paper companies involved adds to the challenge. “You’ve got many potentially responsible parties (paper companies) with different, and often, divergent interests,” he continued. “They are all located on different parts of the river, so each one makes different arguments

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based on geography. Companies at other sites form a group and do everything together, but that's not always the case here."

The companies may not always work together, but the government agencies and tribes do. "It's unusual that we have so many agencies involved," he observed. "But, when we all work together, there's no doubt that it helps us."

When he can get out of the office, he makes time for his family—wife, Lea Ann and their two young daughters. He considers himself to be an "outdoor" person who likes to garden and travel. The Stones spent their recent summer vacation hiking in the Canadian Rockies. When sticking close to home, Stone said he likes to cook. "I make some wicked maple/pecan sweet rolls," he concluded. "I make the diet kind with lots of butter. The recipe is available upon request."

Check out these Web sites:

<http://www.dnr.state.wi.us/org/water/wm/lowerfox/>

<http://www.epa.gov/region5/sites/foxriver/>

<http://www.fws.gov/r9dec/nrdar/nrdamain.html>

<http://www.fws.gov/r3pao/nrda/>

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process is underway for the staging area on the lake and disposal options are being finalized.

This agreement does not address cleanup of the remaining portions of the Lower Fox River and Green Bay. DNR, EPA and the paper companies named as potentially responsible for the PCB contamination are discussing that portion of the cleanup.

The terms of the agreement are in a proposed consent decree that was filed in early October with U.S. District Court in Milwaukee. A 30-day public comment period began on Oct. 17 when notice of the agreement was published in the Federal Register. At the conclusion of the comment period, Nov. 17, it will be subject to approval by a federal judge.

Written comments on the decree may be directed to: Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044-7611. Comments should refer to United States and the state of Wisconsin v. P.H. Glatfelter Co. and WTM I Co., Civil Action No. 03-C-949 (E.D. Wis.) and D.J. Ref. 90-11-2-1045/2.

Further information on the Lower Fox River cleanup can be found in the information repositories listed below and on the DNR and EPA Web sites listed to the left.

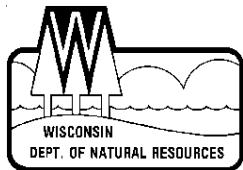
Information Available at Local Libraries

The Intergovernmental Partners invite the public to review technical reports, fact sheets and other documents related to the Lower Fox River cleanup at information repositories set up in the reference sections of the following local libraries. Information repositories at the public libraries in DePere, Kaukauna, Little Chute, Neenah and Wrightstown have been discontinued. However, binders containing fact sheets will be maintained at these locations as well as at the repositories listed below.

- **Appleton Public Library**, 225 N. Oneida St., Appleton, Wis.; (920) 832-6170
- **Brown County Library**, 515 Pine St., Green Bay, Wis.; (920) 448-4381, Ext. 394
- **Door County Library**, 107 S. Fourth Ave., Sturgeon Bay, Wis.; (920) 743-6578
- **Oneida Community Library**, 201 Elm St., Oneida, Wis.; (920) 869-2210
- **Oshkosh Public Library**, 106 Washington Ave., Oshkosh, Wis.; (920) 236-5200



An administrative record, which contains detailed information upon which the selection of the final site cleanup plans were based, is also available for review at two DNR offices: 801 E. Walnut St., Green Bay, Wis. and 101 S. Webster St., 3rd Floor, Madison, Wis. An administrative record is also available at the EPA Record Center, 77 W. Jackson Blvd., 7th Floor, Chicago, Ill.



Prepared by the Fox River Intergovernmental Partnership: Wisconsin Department of Natural Resources, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Menominee Indian Tribe of Wisconsin, Oneida Tribe of Indians of Wisconsin, and National Oceanic and Atmospheric Administration. Supporting agencies include Wisconsin Department of Health and Family Services, U.S. Agency for Toxic Substances and Disease Registry, and U.S. Army Corps of Engineers.

Disclaimer: The opinions expressed in these articles are solely those of the authors and are not necessarily shared by all members of the Fox River Intergovernmental Partnership.

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